



PATENT  
Customer No. 21,127  
Docket No. 11543.120

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Bevers et al. ) Group Art Unit: 1627  
Serial No.: 09/804,893 ) Examiner: Jon D. Eppers  
Filed: March 13, 2001 )  
For: Biomarkers For The Labeling, )  
Visual Detection and Quantification )  
of Biomolecules )

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**Commissioner for Patents and Trademarks  
Washington, DC 20231**

Sir:

## **RESPONSE TO RESTRICTION REQUIREMENT**

In a restriction requirement dated July 15, 2002, the Examiner required restriction under 35 U.S.C. § 121 between:

Group I, claims 1 and 3-5, 12 drawn to biomolecules;

Groups II-V, claims 2, 6-7, 13 drawn to a visually detectable biomolecule with certain P groups;

Group VI, claim 8 drawn to a visually detectable biomolecule with certain P groups:

Group VII, claim 9 drawn to a visually detectable biomolecule with certain P groups;

Group VIII, claim 10 drawn to a visually detectable biomolecule with certain P groups;

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Group IX, claim 11 drawn to a visually detectable biomolecule with certain P groups;

Group X, claim 14 drawn to a kit for determining the size of a biomolecule;

Groups XI – XIV, claim 15 drawn to a kit for determining the size of a biomolecule with certain P groups;

Groups XV – XIX, claim 16 drawn to a method for determining the size of a test biomolecule with certain P groups;

Group XX, claims 17, 19, 21-24 drawn to a method for visually detecting a biomolecule;

Groups XXI – XXIV, claims 18 and 20 drawn to a method for visually detecting a biomolecule with certain P groups;

Group XXV, claim 25 drawn to a method for visually detecting a biomolecule with certain P groups;

Group XXVI, claim 26 drawn to a method for visually detecting a biomolecule with certain P groups;

Group XXVII, claim 27 drawn to a method for visually detecting a biomolecule with certain P groups;

Group XXVIII, claim 28 drawn to reactive dyes having certain formulae;

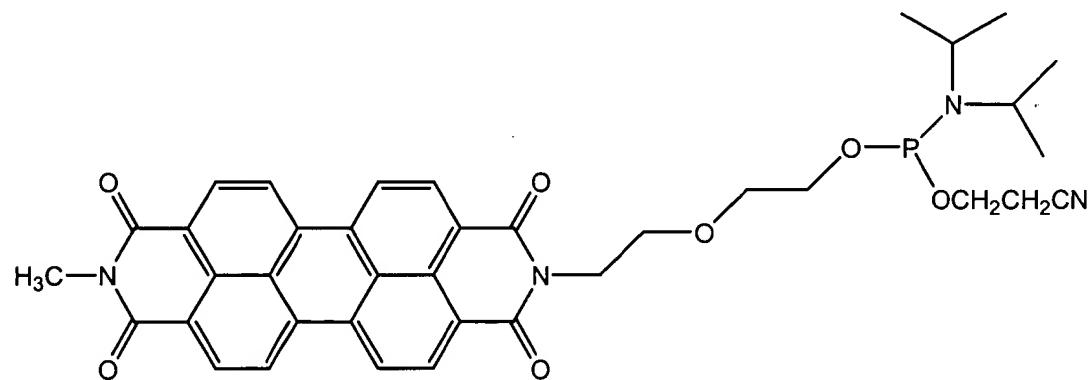
Groups XXIX – XXXII, claims 29, 32-33 drawn to reactive dyes having certain formulae;

Groups XXXIII – XXXV, claim 30, 31-33 drawn to reactive dyes having certain formulae.

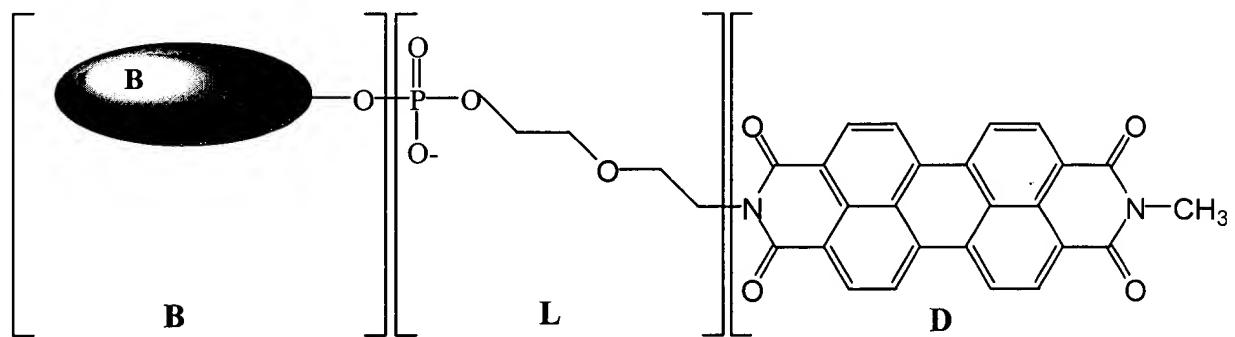
In addition the Examiner further requires election for search purposes a subgroup 1-4 of a certain Groups, a single specific species of molecule, either biomolecule or dye,

based on the dependency of the claims in each Group having a biomolecule component or a dye component or both.

Per the Examiner's request, Applicants provisionally elect to prosecute Group XX, claims 17, 19, 21-24 drawn to a method for visually detecting a biomolecule. Further per the Examiner's request, Applicants provisionally elect as a specific molecular species for the Examiner's search purposes a reactive dye  $(D)_n-L-X$  having the following structural formula:



and a biomolecule  $B-(--L-(D)_m)_n$  wherein  $B$  is a nucleic acid attached to the amine molecule in the specific molecule/formula shown immediately below via the 5' or 3' hydroxy of the phospho linker groups of nucleic acid  $B$ :



Notwithstanding the foregoing selection of a specific molecule per the examiner's request, Applicants believe that the restriction requirement to a single molecular embodiment from Group XX is traversed because a method using a reactive dye molecule D which is a radical of a photostable visible dye, even though structurally different D (and L and B) components are possible, will not require different reaction steps to effect the claimed method which is contacting a biomolecule with the reactive dye as generically claimed.

In view of the foregoing, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement to one molecular embodiment and to examine all embodiments encompassed by the claims of Group XX.

Enclosed herewith is a check in the amount of \$980.00 in payment of the five month extension fees. Please grant any extensions of time required to enter this response per the accompanying Petition for four month extension and charge any additional required fees to our deposit account 02-3038 to the extent any additional or other fees may be required to enter this response or otherwise respond to the examiner's July 15, 2002 action.

Respectfully submitted,

Kudirka and Jobse, L.L.P.

Dated:

12/18/2002

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